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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,170	06/20/2003	Andy Peichl	7781.0083-00	7610
22852 7590 09/27/2007 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER WONG, ERIC TAK WAI	
			ART UNIT 3609	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/601,170

Applicant(s)

PEICHL ET AL.

Examiner

Eric T. Wong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 6/20/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-29 are pending. The following is a non-final first Office action on the merits of claims 1-29.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 13 recites the limitation "said actual employee budget" in the claim. There is insufficient antecedent basis for this limitation in the claim.
3. Claim 14 recites the limitation "said potential position budget" in the claim. There is insufficient antecedent basis for this limitation in the claim.
4. As best understood, examiner interprets claims 13 and 14 as dependent upon claim 12 and claim 12 as dependent upon claim 11, resulting in claims 13 and 14 being duplicate claims.
5. Applicant is advised that should claim 13 be found allowable, claim 14 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 16 and 23 rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,600,554 to Williams.

**As per claims 16 and 23**

Williams ('554) discloses:

A method for evaluating and controlling human resource budgets, comprising:

Retrieving human resource relevant data and evaluating a human resource budget for a given human resource object for predefined period of time on the basis of said retrieved data, and storing and monitoring said budget during said predefined period of time, (abstract, column 1:line 41).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-8 rejected under 35 U.S.C. 103(a) as being unpatentable over Williams ('554) in view of *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

**As per claim 1**

Williams ('554) discloses:

A position budgeting and control system for evaluating and controlling human resource budgets, comprising:

A central processing unit, (see Figure 2, element 210);  
Input/output means, (Figure 1, 130a-d);

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At least one data base containing human resource data relating to human resource objects, (Figure 2a, element 70); and

A commitment engine,

Said commitment engine retrieving human resource relevant data from said at least one data base and evaluating a human resource budget for a given human resource object for a predefined period of time on the basis of said retrieved data, said commitment engine further storing the result of said evaluation, (abstract),

monitoring said budget during said predefined period of time, (column 1: line 39-44).

Williams ('554) does not expressly show automating the step of monitoring.

*In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958) teaches:

It was known at the time of invention that merely providing an automatic means to replace a manual activity which accomplishes the same result is not sufficient to distinguish over the prior art. For example, simply automating the step of monitoring a budget based upon the information from a database gives you just what you would expect from the manual step as shown in Williams ('554). In other words there is no enhancement found in the claimed step. The claimed step of monitoring only provides automating the manual activity with the end result being the same as compared to the manual method. A computer can simply perform the steps faster.

It would have been obvious to one of ordinary skill in the art at the time of invention to automate the step of monitoring because this would speed up the process of determining whether one is under or over budget, which is purely known, and an expected result from automation of what is known in the art.

## **As per claim 2**

Williams ('554) further discloses:

wherein said commitment engine comprises an administrator module, an object collector module and a data collector module, said administrator module being connected to said object collector module, said administrator module being connected to said object collector module and said data collector module, said administrator module administering data flow to and from said object and data collector modules, said object collector module retrieving objects from said at least one data base means and said data collector means collecting data from said at least one data base and writing updated human resource data to said at least one data base, (abstract).

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**As per claim 3**

Williams ('554) further discloses:

said commitment engine further comprising:

a creator module for creating budget control documents, (column 23:lines 59-67)

an error handling module for handling errors and triggering workflows to overcome an error, (column 13:lines 6-8)

a transfer module for transferring budget data to exterior accountancy, (column 2: lines 37-42)

said administrator module administering data flow to and from said creator, said error handling and said transfer modules

**As per claim 4**

Williams ('554) further discloses:

said human resource data consists of position data and individual employee data, (Figure 8, element 820).

**As per claim 5**

Williams ('554) further discloses:

said commitment engine calculates individual employee salary on the basis of said retrieved data, (abstract).

**As per claim 6**

Williams ('554) further discloses:

said commitment engine calculates said individual employee salary for said predefined period of time as a budget (abstract)

said commitment engine monitors said budget during said period of time, (column 1: line 41).

**As per claim 7**

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Williams ('554) further discloses:

said commitment engine combines several of said individual employee salary budgets into a department or cost center budget, (column 8: lines 62-67).

**As per claim 8**

Williams ('554) further discloses:

said commitment engine monitors said department or cost center budget during said period of time, (column 8: lines 62-67).

8. Claims 11 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Williams ('554) in view of *In re Venner* as applied to claim 4 above, and further in view of "EMA model defines cost-per-hire as part of staffing performance" (Thaler-Carter, HRMagazine, Monday December 1, 1997, hereinafter Thaler-Carter).

**As per claim 11**

Williams ('554) in view of *In re Venner* as applied to claim 4 above does not expressly disclose:

said commitment engine calculates position cost simulations for employee positions on the basis of said position data for said predefined period of time, the sum of said position cost simulations being the potential position budget for an employer entity or sub-entity for said predefined period of time

Thaler-Carter teaches:

said commitment engine calculates position cost simulations for employee positions on the basis of said position data for said predefined period of time, the sum of said position cost simulations being the potential position budget for an employer entity or sub-entity for said predefined period of time, (page 2: Two Key Methods for Figuring Costs).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention above to include:

said commitment engine calculates position cost simulations for employee positions on the basis of said position data for said predefined period of time, the

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sum of said position cost simulations being the potential position budget for an employer entity or sub-entity for said predefined period of time.

One of ordinary skill in the art at the time of invention would have been motivated to make such modification for the benefit of projecting costs for budget.

**As per claim 12**

Examiner interprets claim 12 depending on claim 11.

See claim interpretation above in Claim Rejections - 35 USC § 112

Williams ('554) further discloses:

said commitment engine calculates employee cost simulations for an existing employee on the basis of said individual employee data for said predefined period of time, the sum of said employee cost simulations being the actual employee budget for an employer entity or sub-entity for said predefined period of time, (column 8: lines 62-67).

9. Claims 13 and 14 rejected under 35 U.S.C. 103(a) as being unpatentable over

Williams ('554) in view of *In re Venner* further in view of Thaler-Carter as applied to claim 12 above, and further in view of US Patent No. 5,164,897 to Clark et al.

**As per claims 13 and 14**

Examiner interprets claims 13 and 14 as depending on claim 12.

See claim interpretation above in Claim Rejections - 35 USC § 112

Williams ('554) in view of *In re Venner* further in view of Thaler-Carter as applied to claim 12 above does not expressly disclose:

said commitment engine provides an indication for a hiring decision regarding hiring of new personnel on the basis of the difference between said potential position budget and said actual employee budget.

Clark et al. ('897) teaches:

said commitment engine provides an indication for a hiring decision regarding hiring of new personnel on the basis of the difference between said potential position budget and said actual employee budget, (column 15: lines 61-68).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention above to include:



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said commitment engine provides an indication for a hiring decision regarding hiring of new personnel on the basis of the difference between said potential position budget and said actual employee budget.

One of ordinary skill in the art at the time of invention would have been motivated to make such modification for the benefit of remaining within budget.

10. Claim 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Williams ('554) in view of *In re Venner* as applied to claim 4 above, and further in view of US Patent No. 7,249,072 to Nearhood et al.

**As per claim 15**

Williams ('554) in view of *In re Venner* as applied to claim 4 above does not expressly disclose:

said commitment engine automatically recognizes changes to said human resource data that are relevant to said budget and re-evaluates said budget

Nearhood et al. ('072) teaches:

recognizing changes to data that are relevant to said budget and re-evaluates said budget, (figure 13: element 342).

Nearhood et al. ('072) does not expressly disclose automating the step of recognizing.

*In re Venner* teaches to make automatic is obvious to one of ordinary skill in the art.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention above to include:

said commitment engine automatically recognizes changes to said human resource data that are relevant to said budget and re-evaluates said budget

One of ordinary skill in the art at the time of invention would have been motivated to make such modification for the benefit of increased accuracy.

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11. Claims 9 and 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Williams ('554) in view of *In re Venner* as applied to claims 6 and 8 above, and further in view of Applicant admission of prior art.

**As per claims 9 and 10**

Williams ('554) in view of *In re Venner* as applied to claims 6 and 8 above does not expressly disclose:

said monitoring involves a comparison of said calculated budget with actually effected salary payments.

Applicant admission of prior art discloses:

said monitoring involves a comparison of said calculated budget with actually effected salary payments, ([004]).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention above to include:

said monitoring involves a comparison of said calculated budget with actually effected salary payments.

One of ordinary skill in the art at the time of invention would have been motivated to make such modification for the benefit of seeing if one is over or under budget.

12. Claims 17-22, 24-29 rejected under 35 U.S.C. 103(a) as being unpatentable over Williams ('554) in view of US Patent No. 4,400,017 to Pendergrass.

**As per claims 17 and 24**

Williams ('554) does not expressly disclose:

Reserving funds according to said evaluated human resource data.

Pendergrass ('017) teaches:

Reserving funds according to said evaluated human resource data, (abstract).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention above to include:

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Reserving funds according to said evaluated human resource data.

One of ordinary skill in the art at the time of invention would have been motivated to make such modification for the benefit of predicting expenses.

**As per claims 18 and 25**

Williams ('554) does not expressly disclose:

Continuously adapting said reserved funds by subtracting effected salary payments.

Pendergrass ('017) teaches:

Continuously adapting said reserved funds by subtracting effected salary payments, (figure 5: elements I, J).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention above to include:

Continuously adapting said reserved funds by subtracting effected salary payments.

One of ordinary skill in the art at the time of invention would have been motivated to make such modification for the benefit of seeing how much of the budget remains.

**As per claims 19 and 26**

Williams ('554) does not expressly disclose:

On the basis of budget preparation, performing a reservation step for a human resource position only

then performing a pre-commitment step for occupied and vacant human resource positions only on the basis of retrieved specific position data,

and then performing a commitment step for human resource objects only on the basis of retrieved specific object data,

and subsequent adaptation of the results of the respective prior steps

Pendergrass ('017) teaches:

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On the basis of budget preparation, performing a reservation step for a human resource position only, (inherent in budgeting)

then performing a pre-commitment step for occupied and vacant human resource positions only on the basis of retrieved specific position data, (figure 5: element E)

and then performing a commitment step for human resource objects only on the basis of retrieved specific object data, (figure 5: element I)

and subsequent adaptation of the results of the respective prior steps, (figure 5: element J).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention above to include:

On the basis of budget preparation, performing a reservation step for a human resource position only

then performing a pre-commitment step for occupied and vacant human resource positions only on the basis of retrieved specific position data,

and then performing a commitment step for human resource objects only on the basis of retrieved specific object data,

and subsequent adaptation of the results of the respective prior steps

One of ordinary skill in the art at the time of invention would have been motivated to make such modification for the benefit of reevaluating a budget by comparing budgeted versus actual expenses.

#### **As per claims 20 and 27**

Williams ('554) does not expressly disclose:

Reserving funds for said predefined period of time on the basis of said commitment step

Pendergrass ('017) teaches:

Reserving funds for said predefined period of time on the basis of said commitment step, (figure 5: element J).

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It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention above to include:

Reserving funds for said predefined period of time on the basis of said commitment step

One of ordinary skill in the art at the time of invention would have been motivated to make such modification for the benefit of reevaluating a budget by comparing budgeted versus actual expenses.

**As per claims 21 and 28**

Williams ('554) does not expressly disclose:

Continuous adaptation of the results of said pre-commitment and commitment steps based on changes to said human resource position data

Pendergrass ('017) teaches:

Continuous adaptation of the results of said pre-commitment and commitment steps based on changes to said human resource position data, (figure 5: element I).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention above to include:

Continuous adaptation of the results of said pre-commitment and commitment steps based on changes to said human resource position data

One of ordinary skill in the art at the time of invention would have been motivated to make such modification for the benefit of reevaluating a budget by comparing budgeted versus actual expenses.

**As per claims 22 and 29**

Williams ('554) does not expressly disclose:

Continuous adaptation of the results of said pre-commitment and commitment steps based on changes to said human resource object data

Pendergrass ('017) teaches:

Continuous adaptation of the results of said pre-commitment and commitment steps based on changes to said human resource object data, (figure 5: element J).

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It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention above to include:

Continuous adaptation of the results of said pre-commitment and commitment steps based on changes to said human resource object data

One of ordinary skill in the art at the time of invention would have been motivated to make such modification for the benefit of reevaluating a budget by comparing budgeted versus actual expenses.

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**Conclusion**

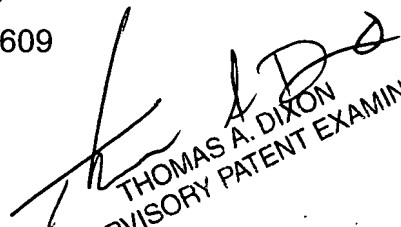
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric T. Wong whose telephone number is (571) 270-3405. The examiner can normally be reached on Monday-Friday 7:30AM-5:00PM, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eric T. Wong  
Examiner  
Art Unit 3609

Sep 07

  
THOMAS A. DIXON  
SUPERVISORY PATENT EXAMINER